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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/739,080	12/19/2003	John C. Marshall	6247.460	9921

7590 08/10/2007  
Joseph W. Berenato, III  
Liniak, Berenato & White, LLC  
Suite 240  
6550 Rock Spring Drive  
Bethesda, MD 20817

EXAMINER
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WOOD, KIMBERLY T

ART UNIT	PAPER NUMBER
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3632

MAIL DATE	DELIVERY MODE
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08/10/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/739,080

**Applicant(s)**

MARSHALL, JOHN C.

**Examiner**

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-9, 12, 13, 19, 22, 23 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9, 13, 19, 22, 23 and 26-30 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

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This is an office action for serial number 10/739,080.

***Allowable Subject Matter***

The indicated allowability of claims 2, 4, 5, 7-9, 11 and 13 is withdrawn in view of the reference(s) to Luoma and Haase. Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 4, 5, 7-9, 13, 19, 22, 23, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwing 6,431,822 in view of Luoma 5,475,386. Schwing (Figure 15-17) discloses a vertical support (30) having a first end and a second end, an arm (35) has a U-shape connected to the first end and extending outwardly therefrom with a distal end oriented in a downwardly direction (figure 17), a product (710) connected to and suspended from a distal end of said arm, wherein the product is a ceiling fan (see figure 15), a base plate (740) connected

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said second end of the vertical support, a horizontal base (figure 16) comprising at least one tubular member defining a periphery thereof or area of predetermined shape including an elongated support member (730, 732, 734, 736; see column 6, lines 25ff). Schwing discloses all of the limitations of the claimed invention except for the support braces and the horizontal base forming a T-shaped outline. It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Schwing to have made the horizontal base forming a T-shaped outline said base plate secured to a first portion of said horizontal base proximate the periphery thereof, said horizontal base having a second portion extending outwardly from said vertical support, a first tubular member having parallel legs; a second tubular member disposed opposite said first tubular member, said second tubular member having parallel legs extending parallel to and spaced from said first tubular member parallel legs, wherein said first tubular member is connected to said second tubular member to form the T-shaped outline, and said base plate is secured to adjacent ones of said first and second tubular member parallel legs proximate the periphery of said horizontal base; each of said first tubular member and said second tubular member has a first end and a second end, a frustoconical portion of said second tubular

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member first end slides inside said first tubular member first end to form a single joint, said base plate is connected to said first tubular member at an intermediate point thereof, said base plate is connected to said second tubular member adjacent to said second end thereof; wherein said first tubular member is longer than said second tubular member, said first tubular member extending into an interior of said T-shaped outline to form a channel, said channel having an opening perpendicular to said channel longitudinal axis; wherein said horizontal base is configured so that said first tubular member second end and said second tubular member second end extend perpendicular to said first tubular member first end and said second tubular member first end; wherein each of said first and said second tubular members are configured to have five 90° bends; wherein said first tubular member second end extends into an interior of said T-shaped outline further than said second tubular member second end; wherein said joint is positioned on a vertical plane that passes through each of said base plate, said vertical support, said arm, and said product, said vertical plane also passing through said horizontal base first tubular member second end since such a modification is merely a change in the shape of the horizontal base which would not destroy the function of the invention or produce any unexpected results. The modification

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of the horizontal base from legs having the shape of Schwing to a T-shaped outline would have been obvious by using the general knowledge and logic of the one skilled in the art since Schwing teaches within column 6, lines 23ff, that the "leg portions 730, 732 extend in a direction toward the fan 710 to balance the overturning moment created by the overhanging weight of the fan" which suggests or motivates the examiner to the conclusion that as long as the legs extend in a direction toward the fan such as in a T-shaped fashion the legs would still balance the overturning moment created by the overhanging weight of fan therefore being an obvious modification resulting in a horizontal display surface. Luoma teaches that it is known to have support braces extending upwardly perpendicular to the base plate and adjacent the vertical support (26). It would have been obvious to one having ordinary skill in the art to have modified Schwing to have included the support braces as taught by Luoma for the purpose of strength and stability to the vertical support.

Claims 2, 3, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwing 6,431,822 in view of Luoma 5,475,386, as discussed above in view of Haase 4,625,937.

Schwing in view of Luoma discloses all of the limitations of the claimed invention except for the a first, second and third

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segments, a top of said first segment connecting with a base of said second segment, a top of said second segment connecting to a base of said third segment, and a top of said third segment connecting to said arm. Haase teaches that it is known to have a first, second and third segments, a top of said first segment connecting with a base of said second segment, a top of said second segment connecting to a base of said third segment, and a top of said third segment connecting to said arm (figure 2). It would have been obvious to one having ordinary skill in the art to have made the vertical support of segments as taught by Haase for the purpose of decreasing or increasing the length of the vertical support as motivated or suggested by Schwing in column 6, lines 5ff. The examiner takes official notice that it is well known and old in the art to provide a threaded bolt extending perpendicularly through both said segments for the purpose of preventing the segments from being accidentally disassembled when hit or brushed up against.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwing 6,431,822, as discussed above. Schwing discloses all of the limitations of the claimed invention except for the at least one box having the same product packaged. The examiner takes official notice that it is well known that a stand having a horizontal base wherein the

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base has been used to support at least one box having the same product packaged therein for that displayed product.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwing 6,431,822, as discussed above, in view of Luoma 5,475,386. Schwing discloses all of the limitations of the claimed invention except for the base plate having a planar rectangular shape and horizontal base having an area of a predetermined shape and including an elongated support member extending at least around a periphery of the area of the predetermined shape to define the predetermined shape, said base plate secured to a portion of said horizontal base proximate the periphery thereof. It would have been obvious to one having ordinary skill in the art to have modified Schwing to have a horizontal base having having an area of a predetermined shape and including an elongated support member extending at least around a periphery of the area of the predetermined shape to define the predetermined shape, said base plate secured to a portion of said horizontal base proximate the periphery thereof and the base plate being rectangular shape since such a modification is merely a change in shape. The modification of the horizontal base would have been obvious by using the general knowledge and logic of the one skilled in the art since Schwing teaches within column 6, lines 23ff, that the "leg portions 730,



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732 extend in a direction toward the fan 710 to balance the overturning moment created by the overhanging weight of the fan" which suggests or motivates the examiner to the conclusion that as long as the legs extend in a direction toward the fan such as an area of a predetermined shape and including an elongated support member extending at least around a periphery of the area of the predetermined shape to define the predetermined shape to define the predetermined shape using the legs as taught by Schwing would still balance the overturning moment created by the overhanging weight of fan therefore being an obvious modification resulting in a horizontal display surface. Luoma teaches that it is known to have support braces extending upwardly perpendicular to the base plate and adjacent the vertical support (26). It would have been obvious to one having ordinary skill in the art to have modified Schwing to have included the support braces as taught by Luoma for the purpose of strength and stability to the vertical support.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwing 6,431,822, as discussed above, in view of Haase 4,625,937. Haase teaches that it is known to have a first, second and third segments, a top of said first segment connecting with a base of said second segment, a top of said second segment connecting to a base of said third segment, and a

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top of said third segment connecting to said arm (figure 2). It would have been obvious to one having ordinary skill in the art to have modified Schwing to have made the vertical support of segments as taught by Haase for the purpose of decreasing or increasing the length of the vertical support as motivated or suggested by Schwing in column 6, lines 5ff.

#### ***Allowable Subject Matter***

Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

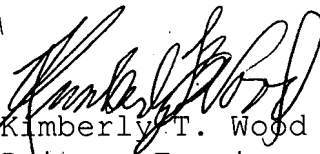
#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 571-272-6826. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Kimberly T. Wood  
Primary Examiner  
Art Unit 3632

August 5, 2007